



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/763,916	05/11/2001	Derek Aldcroft	PM277889	3570

909 7590 06/07/2002
PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER

LEVY, NEIL S

ART UNIT	PAPER NUMBER
----------	--------------

1616

DATE MAILED: 06/07/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Receipt is acknowledged of Declarations and Change of Address (5/9/02).

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 26-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

"Retention factor" is not clear and should be identified and specified in the claim. Claim 29 requires activation—this should be identified in the claim, based (claims 26, 35, 38 and 41) is indefinite—the medium should be identified in the claim. "Derivative" is indefinite—they should be identified in the claim (44), as should the "conditions" of claim 45, 41, as one cannot refer to the specification, or to in essence, multiple dependent claims.

Claims 26-48 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. One ordinary skill in the art would not be able to attain the composition products and methods, without undue experimentation, since the

parameters to be met are ambiguous and beyond the scope of the specification only certain biocides carriers, particulates under certain controlled conditions are seen as able to permit one in the art to achieve the claimed invention.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) The invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 26-36 and 43-46 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sumita et al JP 04-66505.

The instant isothiazalone (page 3) is intercalated into a porous carrier, in order to use improve handling, odor, toxicity attributable compounds with enhanced antibacterial and antifungal efficacy (page 4). Zeolites adsorbed liquid carrier of the isothiazalone, with retention of 1.0 was seen: no microbes (3) were

present (Table) after 2 weeks, as opposed to comparatives. Heat activation was used (page 5) the zeolites and biocide were the instant, so the attributes are the same also, even if unstated. Applicant should show the Sumita is not able to provide 80% isothiazalone identification after incubation 40 days—since the composition are the instant, even though only 2 weeks was used, since microbes were destroyed, we would expect to find the same conditions as the instant claim.

Claims 26-41 and 43-46 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Rollen—Wo 93/09817.

Here, too the instant isothiocyanates (page 4) are adsorbed into porous zeolite, and applied as coating and surface treatment liquid compositions for cleaning, painting (page 5). Adsorption capability and retentions are as instantly claimed (page 6, 5.)—efficacy was tested 7 days (page 7). Treatment consists of sanitizer liquid application (claim 1), efficacy was from 1 month to 12 months (claim 2). Absent any specification of the materials of the instant claims, in the paint, mud drilling, grouting, sealant, compositions, the instant compositions are seen as non-novel in the respect.

Claims 26-35 and 43-48 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0353075.

See pages 19, 20: treated/activated particles of the instant claims are shown as retaining 30% of the instant biocidal mix. Claims 13-14 show the particle formulation in liquid vehicles and water.

Claims 26-34, 36 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Knight et al 5693344.

Absorbent particulate, biocides, able to absorb up to 4 times its weight (column 3, lines 5-8) in liquid of biocide (line 25-43, column 3) of known antimicrobial fragrances. The particulate matter is activated by thermal means (column 4, line 4-10).

Claims 26-35, 43-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Beall et al 5730996.

See column 9, line 45-line 18, column 10—over 30% of biocide solution is sorbed into the particles; treated to activate (column 26; column 12, line 39-67). Pesticides are at claims, use is in a liquid vehicle (column 33, line 43-line 21, column 34). Nothing is said about presize) but since the instant clays/silicas are used, they have that size, surface area. Stable compositions result (column 22, bottom) thus able to meet the instant claims 45, 46. derivatives of isothiazalones are utilized (claim 1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is 308-2412. The examiner can normally be reached on Tuesday- Friday 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees can be reached on 308-4628. The fax phone numbers for the organization where this application or proceeding is assigned are 305-4556 for regular communications and 305-3592 for After Final communications.

Application/Control Number: 09/763,916
Art Unit: 1616

Page 6

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1235.

Levy: mv
June 5, 2002

A handwritten signature in black ink, appearing to read "Neil S. Levy". The signature is written in a cursive, flowing style.

NEIL S. LEVY
PRIMARY EXAMINER